IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 26918 of 2006

DATED: 03.01.2006

Between:

C.L.Rao. **petitioner**

And

The Depot Manager,
A.P.S.R.T.C., Jagityal,
Karimnagar district. **Respondents**

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 26918 OF 2006

ORAL ORDER:

This writ petition is filed seeking to declare the office order No.02/62(104)/90-JGTL, dt.2-7-90 passed by the respondent imposing major punishment of deferment of two annual increments with cumulative effect without conducting the departmental enquiry as illegal and arbitrary.

Petitioner was a driver in the respondent-depot. He states that he was issued charge sheet dt.19-05-90 on the allegation of cash and ticket irregularities and that he submitted explanation to the charge sheet on 22-5-1990. Petitioner further states that the respondent without conducting any enquiry into the allegations the respondent has passed the impugned order imposing the major punishment of deferment of two years annual increments with cumulative effect.

Learned counsel for the petitioner submitted that the respondent without conducting any enquiry has passed the impugned order dt.02-07-1990 imposing major punishment of deferment of two years annual increment with cumulative effect and such imposition is arbitrary and illegal. In support of his submission learned counsel relied upon the judgment of a learned Single Judge of this Court dt.8-9-2005 passed in W.P.No.19218 of 2005 and batch.

Heard the learned counsel for the petitioner as also the learned Standing Counsel for the respondent corporation and perused the judgment in W.P.No.19218 of 2005 and batch dt.8-9-2005.

Admittedly, the impugned order was passed on 02-7-1990 and the petitioner has challenged the impugned orders after lapse of 16 years and the writ petition is liable to be dismissed on the ground of latches. However, as the learned counsel relied upon the judgment dt.8-9-2005 in W.P.No.19218 of 2005 and batch in support of his submission that the impugned punishment without conducting enquiry is illegal and arbitrary, the matter is being disposed of on merits.

The relevant portion of the judgment in W.P.No.19218 of 2005 dt.8-9-2005 reads as under:

> The distinction between these two kinds of punishments came to be maintained, only by virtue of the judgment of the Supreme Court in ***Kulwant Singh Gill's*** case (1 supra), which was rendered on 13-9-1990. It is by virtue of this precedent, that it became imperative for the respondents, to maintain the distinction between the two kinds of punishments, and to impose the one for stoppage of increments, with cumulative effect, only after conducting enquiry. For all practical purposes, 1st October 1990, can be taken as the cut off date, for application of this principle."

It is seen from the above judgment that 1-10-1990 was taken as cut-off date for application of the principle that the major punishment of stoppage of annual increments cannot be imposed without conducting enquiry. Admittedly, the impugned order was passed on 02-7-1990 prior to the cut-off date 1-10-1990 and therefore the same is not applicable to the present case. Therefore, the writ petition is also liable to be dismissed on ground that the impugned order was passed prior to the cut-off date 1-10-1990 specified in the above said judgment apart from the ground of latches.

For the foregoing reasons, the writ petition is dismissed. No costs.

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N.V.RAMANA,J

DATE: 26.12.2006
Grk/TVK

THE HON'BLE MR JUSTICE N.V. RAMANA

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WRIT PETITION NO : 26918 of 2006

DATED: 03.01.2006

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO :26730 of 2006

DATED: 26.12.2006